

House Study Bill 147

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL
BY CHAIRPERSON SMITH)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to a quality assurance assessment program,
2 nursing facility reimbursements, and providing monetary
3 penalties, contingencies, and retroactive and other effective
4 dates.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 1 DIVISION I
1 2 QUALITY ASSURANCE ASSESSMENT PROGRAM
1 3 Section 1. NEW SECTION. 249L.1 TITLE. This chapter
1 4 shall be known and may be cited as the "Quality Assurance
1 5 Assessment Program".
1 6 Sec. 2. NEW SECTION. 249L.2 DEFINITIONS. As used in
1 7 this chapter, unless the context otherwise requires:
1 8 1. "Department" means the department of human services.
1 9 2. "Gross revenue" means all revenue, without deduction,
1 10 that is derived from the performance of nursing facility
1 11 services but does not include other operating revenue or
1 12 nonoperating revenue.
1 13 3. "Medically indigent individual" means an individual
1 14 eligible for coverage under the medical assistance program who
1 15 is a resident of a Medicaid-certified nursing facility.
1 16 4. "Nonoperating revenue" means income from activities not
1 17 relating directly to the day-to-day operations of a nursing
1 18 facility such as gains on the disposal of a facility's assets,
1 19 dividends, and interest from security investments, gifts,
1 20 grants, and endowments.
1 21 5. "Nursing facility" means a licensed nursing facility as
1 22 defined in section 135C.1 that is a freestanding facility or
1 23 distinct part or unit of a hospital which is not owned by the
1 24 state or federal government.
1 25 6. "Other operating revenue" means income from nonpatient
1 26 care services to patients and from sales to and activities for
1 27 persons other than patients which may include but are not
1 28 limited to such activities as providing personal laundry
1 29 service for patients, providing meals to persons other than
1 30 patients, gift shop sales, or vending machine commissions.
1 31 7. "Patient day" means a calendar day of care provided to
1 32 an individual resident of a nursing facility that is not
1 33 reimbursed under Medicare, including the date of admission but
1 34 not including the date of discharge, unless the dates of
1 35 admission and discharge occur on the same day, in which case
2 1 the resulting number of patient days is one patient day.
2 2 8. "Uniform tax requirement waiver" means a waiver of the
2 3 uniform tax requirement for permissible health care-related
2 4 taxes as provided in 42 C.F.R. } 433.68(e)(2)(i) and (ii).
2 5 Sec. 3. NEW SECTION. 249L.3 QUALITY ASSURANCE ASSESSMENT
2 6 == IMPOSED == COLLECTION == DEPOSIT == DOCUMENTATION == CIVIL
2 7 ACTIONS.
2 8 1. a. A nursing facility in this state shall be assessed
2 9 a quality assurance assessment for each patient day for the
2 10 preceding quarter.
2 11 b. The quality assurance assessment shall be implemented
2 12 as a broad-based health care-related tax as defined in 42
2 13 U.S.C. } 1396b(w)(3)(B).
2 14 c. The quality assurance assessment shall be imposed
2 15 uniformly upon all nursing facilities, unless otherwise
2 16 provided in this chapter.

2 17 d. The aggregate quality assurance assessments imposed
2 18 under this chapter shall not exceed the maximum amount that
2 19 may be assessed pursuant to the indirect guarantee threshold
2 20 as established pursuant to 42 C.F.R. } 433.68(f)(3)(i).
2 21 2. The quality assurance assessment shall be paid by each
2 22 nursing facility to the department on a quarterly basis. The
2 23 department shall prepare and distribute a form upon which
2 24 nursing facilities shall calculate and report the quality
2 25 assurance assessment. A nursing facility shall submit the
2 26 completed form with the assessment amount no later than thirty
2 27 days following the end of each calendar quarter.
2 28 3. A nursing facility shall retain and preserve for a
2 29 period of three years such books and records as may be
2 30 necessary to determine the amount of the quality assurance
2 31 assessment for which the nursing facility is liable under this
2 32 chapter. The department may inspect and copy the books and
2 33 records of a nursing facility for the purpose of auditing the
2 34 calculation of the quality assurance assessment. All
2 35 information obtained by the department under this subsection
3 1 is confidential and does not constitute a public record.
3 2 4. The department shall collect the quality assurance
3 3 assessment imposed and shall deposit all revenues collected in
3 4 the quality assurance trust fund created in section 249L.4.
3 5 5. If the department determines that a nursing facility
3 6 has underpaid or overpaid the quality assurance assessment,
3 7 the department shall notify the nursing facility of the amount
3 8 of the unpaid quality assurance assessment or refund due.
3 9 Such payment or refund shall be due or refunded within thirty
3 10 days of the issuance of the notice.
3 11 6. a. A nursing facility that fails to pay the quality
3 12 assurance assessment within the time frame specified in this
3 13 section shall pay, in addition to the outstanding quality
3 14 assurance assessment, a penalty of one and five-tenths percent
3 15 of the quality assurance assessment amount owed for each month
3 16 or portion of each month that the payment is overdue.
3 17 However, if the department determines that good cause is shown
3 18 for failure to comply with payment of the quality assurance
3 19 assessment, the department may waive the penalty or a portion
3 20 of the penalty.
3 21 b. If a quality assurance assessment has not been received
3 22 by the department by the last day of the month in which the
3 23 payment is due, the department shall withhold an amount equal
3 24 to the quality assurance assessment and penalty owed from any
3 25 payment due such nursing facility under the medical assistance
3 26 program.
3 27 c. The quality assurance assessment imposed under this
3 28 chapter constitutes a debt due the state and may be collected
3 29 by civil action, including but not limited to the filing of
3 30 tax liens, and any other method provided for by law.
3 31 d. Any penalty collected pursuant to this subsection shall
3 32 be credited to the quality assurance trust fund.
3 33 7. If federal financial participation to match the quality
3 34 assurance assessments made under this section becomes
3 35 unavailable under federal law, the department shall terminate
4 1 the imposition of the assessments beginning on the date the
4 2 federal statutory, regulatory, or interpretive change takes
4 3 effect.
4 4 Sec. 4. NEW SECTION. 249L.4 QUALITY ASSURANCE TRUST FUND
4 5 == LIMITATIONS OF USE == REIMBURSEMENT ADJUSTMENTS TO NURSING
4 6 FACILITIES.
4 7 1. A quality assurance trust fund is created in the state
4 8 treasury under the authority of the department. Moneys
4 9 received through the collection of the nursing facility
4 10 quality assurance assessment imposed under this chapter and
4 11 any other moneys specified for deposit in the trust fund shall
4 12 be deposited in the trust fund.
4 13 2. Moneys in the trust fund shall be used, subject to
4 14 their appropriation by the general assembly, by the department
4 15 for reimbursement only for services for which federal
4 16 financial participation under the medical assistance program
4 17 is available to match state funds.
4 18 3. The trust fund shall be separate from the general fund
4 19 of the state and shall not be considered part of the general
4 20 fund of the state. The moneys in the trust fund shall not be
4 21 considered revenue of the state, but rather shall be funds of
4 22 the quality assurance assessment program. The moneys
4 23 deposited in the trust fund are not subject to section 8.33
4 24 and shall not be transferred, used, obligated, appropriated,
4 25 or otherwise encumbered, except to provide for the purposes of
4 26 this chapter. Moneys in the trust fund may be used for cash
4 27 flow purposes during a fiscal year provided that any moneys so

4 28 allocated are returned to the trust fund by the end of that
4 29 fiscal year. Notwithstanding section 12C.7, subsection 2,
4 30 interest or earnings on moneys deposited in the trust fund
4 31 shall be credited to the trust fund.

4 32 4. The department shall adopt rules pursuant to chapter
4 33 17A to administer the trust fund and reimbursements made from
4 34 the trust fund.

4 35 5. a. The determination of medical assistance
5 1 reimbursements to nursing facilities shall continue to be
5 2 calculated in accordance with the modified price-based
5 3 case-mix reimbursement system as specified in 2001 Iowa Acts,
5 4 chapter 192, section 4, subsection 2, paragraph "c". In
5 5 addition, moneys that are appropriated from the trust fund for
5 6 reimbursements to nursing facilities that serve the medically
5 7 indigent shall be used to provide the following nursing
5 8 facility reimbursement rate adjustment increases within the
5 9 parameters specified:

5 10 (1) A quality assurance assessment pass-through. This
5 11 rate add-on shall account for the cost incurred by the nursing
5 12 facility in paying the quality assurance assessment, but only
5 13 with respect to the pro rata portion of the assessment that
5 14 correlates with the patient days in the nursing facility that
5 15 are attributable to medically indigent residents.

5 16 (2) A quality assurance assessment rate add-on. This rate
5 17 add-on shall be calculated on a per-patient-day basis for
5 18 medically indigent residents. The amount paid to a nursing
5 19 facility as a quality assurance assessment rate add-on shall
5 20 be ten dollars per patient day.

5 21 b. In determining the appropriate level of quality
5 22 assurance assessment reimbursements to nursing facilities, the
5 23 department shall determine the amount of quality assurance
5 24 assessments collected that have been directed to increases in
5 25 nursing facility reimbursements. The department shall
5 26 cooperate with nursing facility organizations to determine
5 27 that no less than eighty-five percent of the quality assurance
5 28 assessments collected are directed to total nursing facility
5 29 reimbursements under the modified price-based case-mix
5 30 reimbursement system including the reimbursements identified
5 31 in this section.

5 32 6. The department shall report annually to the general
5 33 assembly regarding the use of moneys deposited in the trust
5 34 fund and appropriated to the department.

5 35 Sec. 5. EFFECTIVE AND IMPLEMENTATION DATES. This division
6 1 of this Act takes effect upon enactment and is retroactively
6 2 applicable to the effective date specified in the state plan
6 3 amendment as specified in division II of this Act. However,
6 4 this division of this Act shall not be implemented until the
6 5 department receives approval of the waivers and the medical
6 6 assistance state plan amendment as specified in division II of
6 7 this Act.

6 8 DIVISION II
6 9 DIRECTIVES TO DEPARTMENT OF HUMAN SERVICES
6 10 AND CONTINGENCIES

6 11 Sec. 6. DEFINITIONS. As used in this division of this
6 12 Act, "department", "nursing facility", "patient day", and
6 13 "uniform tax requirement waiver" mean as defined in section
6 14 249L.2, as enacted in this Act.

6 15 Sec. 7. DIRECTIVES TO DEPARTMENT OF HUMAN SERVICES.

6 16 No later than June 30, 2009, the department shall request
6 17 approval of all of the following from the United States
6 18 department of health and human services:

6 19 1. An amendment to the terms and conditions of the
6 20 IowaCare waiver to eliminate the provision in which the state
6 21 agrees to refrain from imposing any provider tax during the
6 22 pendency of the demonstration waiver for IowaCare.

6 23 2. A uniform tax requirement waiver to allow the state to
6 24 impose varying levels of taxation on providers based on
6 25 specified criteria.

6 26 3. A medical assistance state plan amendment to revise the
6 27 state nursing facility reimbursement methodology to, in part,
6 28 allow the medical assistance program to reimburse nursing
6 29 facilities for the medical assistance portion of the provider
6 30 tax paid by the nursing facilities.

6 31 Sec. 8. CONTINGENCY PROVISIONS.

6 32 1. The quality assurance assessment created in this Act
6 33 shall accrue beginning on the date specified in the medical
6 34 assistance state plan amendment. However, accrued quality
6 35 assurance assessments shall not be collected prior to
7 1 completion of both of the following:

7 2 a. The approval of the waivers and the medical assistance
7 3 state plan amendment by the centers for Medicare and Medicaid

7 4 of the United States department of health and human services.
7 5 b. An appropriation by the general assembly to implement
7 6 the nursing facility provider reimbursements as provided in
7 7 this Act.

7 8 2. If a medical assistance state plan amendment specifies
7 9 an effective date in one calendar quarter, but the medical
7 10 assistance state plan amendment is not approved by the centers
7 11 for Medicare and Medicaid services of the United States
7 12 department of health and human services until a subsequent
7 13 quarter, all accrued but unpaid quality assurance assessments
7 14 from any prior quarter shall be paid to the department by lump
7 15 sum payment no later than forty-five days after one of the
7 16 following:

7 17 a. The date of approval of the medical assistance state
7 18 plan amendment.

7 19 b. The date of the adjustment of medical assistance
7 20 reimbursement rates to nursing homes as provided for in an
7 21 appropriation by the general assembly pursuant to this Act.

7 22 Sec. 9. EFFECTIVE DATE. This division of this Act, being
7 23 deemed of immediate importance, takes effect upon enactment.

7 24 EXPLANATION

7 25 Division I of this bill creates a quality assurance
7 26 assessment imposed on nursing facilities and includes a
7 27 quality assurance assessment fund.

7 28 The bill imposes a quality assurance assessment on nursing
7 29 facilities for each patient day. The fee is to be
7 30 broad-based, imposed uniformly, and is not to exceed the
7 31 indirect guarantee threshold as required under federal law.
7 32 The quality assurance assessment is to be paid by each nursing
7 33 facility to the department of human services (DHS) on a
7 34 quarterly basis. DHS is to prepare and distribute a form upon
7 35 which nursing facilities shall calculate and report the
8 1 quality assurance assessment, and each nursing facility is
8 2 required to submit the completed form with the assessment
8 3 amount no later than 30 days following the end of each
8 4 calendar quarter. The bill includes requirements for
8 5 recordkeeping and access to records for the purposes of
8 6 auditing. The bill provides for payments or refunds for
8 7 underpayments or overpayments and also provides penalties and
8 8 collection measures for nonpayment by nursing facilities in a
8 9 timely manner.

8 10 Once DHS collects the assessments, the revenue is to be
8 11 deposited in the quality assurance trust fund established in
8 12 the bill. The fund is created in the state treasury under the
8 13 authority of DHS. Moneys in the trust fund are required to be
8 14 used, subject to their appropriation by the general assembly,
8 15 only as provided in the appropriations from the trust fund to
8 16 DHS only for reimbursement for services for which federal
8 17 financial participation is available. The bill directs DHS to
8 18 adopt rules pursuant to Code chapter 17A to administer the
8 19 trust fund and reimbursements made from the trust fund. The
8 20 bill provides that nursing facilities are to continue to be
8 21 reimbursed under the modified price-based case-mix
8 22 reimbursement methodology originally created in 2001. In
8 23 addition to the amount of reimbursement provided under the
8 24 continuation of the existing formula, the moneys in the fund
8 25 are to be used to provide supplemental payments to nursing
8 26 facilities: a quality assurance assessment pass-through and a
8 27 quality assurance assessment rate add-on. The bill provides a
8 28 methodology for providing these rate adjustments. In
8 29 determining the appropriate level of the assessment
8 30 reimbursements to nursing facilities, DHS is required to
8 31 determine the amount of assessments collected that have been
8 32 directed to increases in nursing facility reimbursements and
8 33 to cooperate with nursing facility organizations to determine
8 34 that no less than 85 percent of the assessments collected are
8 35 directed to total nursing facility reimbursements.

9 1 DHS is required to report annually to the general assembly
9 2 regarding the use of moneys deposited in the trust fund and
9 3 appropriated to DHS.

9 4 Division I of the bill takes effect upon enactment and is
9 5 retroactively applicable to the effective date specified in
9 6 the state plan amendment. The bill directs that division I of
9 7 the bill is only to be implemented following receipt of
9 8 approval of the waivers and state plan amendment as specified
9 9 in division II of the bill.

9 10 Division II of the bill provides directives to DHS and
9 11 contingencies. The bill directs that no later than June 30,
9 12 2009, DHS shall request waivers and a state plan amendment
9 13 from the centers for Medicare and Medicaid services of the
9 14 United States department of health and human services.

9 15 Division II also includes contingency provisions relating to
9 16 accrual and payment of the assessment. Under the bill, the
9 17 assessment would only accrue beginning on the date specified
9 18 in the medical assistance state plan amendment. The accrued
9 19 assessments would not, however, be collected prior to
9 20 fulfillment of both the approval of the waivers and state plan
9 21 amendment and provision of an appropriation by the general
9 22 assembly to implement the nursing facility provider
9 23 reimbursements as provided in the bill. A contingency is also
9 24 included relating to the collection in a lump sum of
9 25 assessments that accrue during the quarter specified in the
9 26 state plan amendment but prior to the approval of a state plan
9 27 amendment.

9 28 Division II of the bill takes effect upon enactment.

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